21 October 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**GEORGE SCHEMBRI**

**Date of hearing:** 14 October 2024

**Date of decision:** 14 October 2024

**Panel:** Judge John Bowman (Chairperson) and Dr Andrew Gould.

**Appearances:** Mr Adrian Crowther appeared on behalf of the Stewards.

Mr George Schembri represented himself.

**Charges:** Australian Harness Racing Rule (“AHRR”) 149(2) states:

 (2) A person shall not drive in a manner which in the opinion of the Stewards is unacceptable.

 Australian Harness Racing Rule (“AHRR”) 163(1)(d) states:

 (1) A driver shall not

(d) directly or indirectly cause another runner to shift inside the line of the marker posts or into the sprint lane.”

**Particulars: Charge 1**

AHRR 149(2) the particulars being that Mr Schembri engaged in a prolonged contest for the lead, which was detrimental to his horses finishing position.  In determining penalty Stewards took into account Mr Schembri’s immediate plea of guilt, his level of culpability in   that he was the aggressor in the contest, his record with no breaches of this rule since 2010 and HRV Minimum Penalty guidelines which indicate a starting point of a six-week suspension with a minimum of a three-week suspension. A four-week suspension was imposed to begin at midnight on 8 September.

**Charge 2**

AHRR 163(1)(d) The particulars of the charge being that Mr Schembri had directed his drive inwards near the 1200 metres when not clear of ETIZ A MODEL causing that runner to race with her inside sulky wheel inside three marker pegs and then being placed into the sprint lane until such time as Mr Schembri ceased his challenge approaching the bell. Mr Schembri pleaded not guilty to the charge however after giving due consideration to all the evidence Stewards found Mr Schembri guilty as charged. A two-week suspension was imposed to be served consecutively to the four-week suspension incurred under AHRR 149(2). Mr Schembri was advised of his rights of appeal.

**Plea:** Guilty

**DECISION**

Mr George Schembri, you are appealing against the penalties imposed by the Stewards in relation to your drive of Paige the Hurricane in Race 9 at Melton on 30 August 2024. The other horse involved was Etiz A Model, driven by Ms Taylor Ford.

After the running of the race, two charge were laid against you. One was pursuant to AHRR 149(2), which could be summarised as driving in an unacceptable manner. The other was pursuant to AHRR 163(1)(d) and could be summarised as causing another runner, namely Ms Ford’s drive, to go inside the marker pegs.

As stated, you are pleading guilty to both charges, so that the appeal is solely in relation to penalty. The penalties imposed were of suspension for 4 weeks for the breach of AHRR 149(2) and 2 weeks for the breach of AHRR 163(1)(d). The penalties are cumulative, so that you received an overall penalty of 6 weeks suspension, which you are appealing.

We have had the benefit of helpful submissions and of being able to view the patrol videos. Our attention was directed to aspects of them by Mr Crowther during the hearing.

Ms Ford had drawn 1. You had drawn 2. We accept that your drive is a known leader and that you were keen to get to the front again.

After the arms folded, you immediately tried to get to the front. Ms Taylor held you out. There was some shouting back and forth. It was clear that Ms Ford was not going to surrender the lead. This went on for a distance of 600 or more metres, including the turn from the back straight into the front straight.

It was apparent that Ms Ford was not going to let you cross her and take the lead. At the home turn, you were almost a full length clear of her, but not in a position to cross safely. Further, you were crowding her somewhat, forcing her to contact approximately four marker pegs. Ultimately, close to the winning post, you effectively surrendered and dropped in behind her.

The damage had been done. Both horses tired and dropped back, particularly yours, which ran a distant second last. What had occurred had given both horses effectively no chance of winning.

We accept that you are a regular, but not a full-time driver. You have a good record. However, this type of driving cannot be tolerated. You have stated that Ms Ford should have done her homework and known that your horse frequently led, but that is no excuse. You should not have driven in this fashion, which effectively gave your horse no chance.

Bearing all this in mind, we are of the view that the penalty of four weeks suspension imposed in relation to AHRR 149(2) is appropriate.

We are also of the view that the two week suspension in relation to AHRR 163(1)(d) is appropriate as a penalty, but we are of the view that it was part of the overall scenario of your determination to lead and Ms Ford’s determination that you did not. That is not to excuse forcing her on to the marker pegs, but it seems to us that this was part of the overall driving battle that took place.

Whilst we view the two weeks penalty as such as appropriate, we are of the opinion that such penalty should be concurrent with the penalty imposed for the breach of AHRR 149(2). It was part of this battle for the lead that ended the winning chance of each horse.

Accordingly, the appeal is upheld in that the penalty pursuant to AHRR 163(1)(d) is to be served concurrently with the penalty pursuant to AHRR 149(2). A total suspension of four weeks is imposed. The suspension shall start at midnight on 24 October 2024.

Mark Howard

Registrar, Victorian Racing Tribunal